



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

TO: Charles Lee, Acting Director, Office of Environmental Justice ("OEJ")
Office of Enforcement and Compliance Assurance ("OECA")

FROM: Theodore J. Kim, Legal Counsel, OEJ/OECA /s/ *Ted Kim*

DATE: June 29, 2007

RE: "Environmental Justice in the News" for the Week Ending June 29, 2007
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This memorandum summarizes select environmental justice news actions for the period beginning May 25, 2007 through the week ending June 29, 2007. The summary is limited to Lexis/Nexis searches conducted using the query: "(environment! w/2 (justice or racism or equity or disproportionate or disparate)) or (environment! w/25 minorit! or low***income) or (executive order 12898) or (civil right! w/25 environmental) or ("fair housing act" w/25 (environment! or zon!))." Please note that articles on international or foreign-based environmental justice issues were not included.

1. **News Items.**

The following news was particularly noteworthy:

- **"GAO Blasts EPA Over Its Response to Katrina," Associated Press State & Local Wire (June 28, 2007).** According to the article, the Government Accountability Office ("GAO") issued a report on June 25, 2007 that asserted that the United States Environmental Protection Agency ("EPA") "potentially exposed scores of residents, volunteers, and workers to asbestos fibers by not doing more to monitor the contaminant in the cleanup after Hurricane Katrina." The report also said that EPA occasionally issued "unclear and inconsistent" information regarding the potential danger of asbestos, mold, and other contaminants when people were cleaning up their homes. An environmental justice attorney at the National Resources Defense Council claimed that EPA "abdicated a legal and moral responsibility [it] had to protect returning residents from toxic contamination that was exacerbated by the flood." In response, EPA asserted that it and "other first responder agencies responded quickly and decisively to help their fellow citizens."

- **“Citgo and Subsidiary Found Guilty: Jury Says Storage Tanks in Corpus Christi Lacked Proper Emissions Controls,” Houston Chronicle (June 28, 2007).** According to the article, Citgo Petroleum Corporation and its refining subsidiary (collectively “Citgo”) were convicted on June 27, 2007 “of breaking federal environmental laws by operating two open-air storage tanks without proper emission controls at a refinery in Corpus Christi.” However, Citgo was acquitted on charges that it knowingly allowed wastewater in the storage tanks to expose the air to illegal levels of benzene. Accordingly, Citgo will face fines of either twice the economic gain of the violations or up to \$1 million, whichever is greater. Citgo also faces potential probation for five years. While Citgo contends “no evidence links the refinery to health problems in the nearby neighborhoods,” one environmental justice advocate claimed that the decision was a “tremendous victory for so many people that have been unjustly treated by Citgo and other oil refineries for several decades.”
- **“Toxin-Free Water Demanded at Lively Forum in Rialto,” San Bernardino County Sun (CA June 28, 2007).** According to the article, hundreds of residents, as well as representatives of organizations, in Rialto, California met on June 27, 2007 at a forum to demand the elimination of perchlorate from the local drinking water supply. Perchlorate, which is an ingredient used to produce rocket fuel, has been linked to thyroid gland problems. The Rialto residents have accused dozens of parties for causing the pollution. They also took issue with the fact that perchlorate contamination in Redlands, California, which was discovered in the same year, has already been cleaned. The Director of the Center for Community Action and Environmental Justice attributed this disparity to the fact that “Redlands is a wealthier and predominantly white community with more political influence than Rialto.”
- **“Cement Company Draws Praise, Gripes at Public Hearing,” Courier-Post (N.J. June 27, 2007) at B-1G.** According to the article, New Jersey’s Department of Environmental Protection (“DEP”) held a public hearing in South Camden on June 26, 2007 regarding an application from St. Lawrence Cement Company (“St. Lawrence”) to increase production. Reactions to St. Lawrence from the crowd of approximately 50 people were mixed. Some “opposed any expansion, saying air quality in the neighborhood is already compromised by an abundance of polluters and heavy truck traffic.” One commenter wondered how St. Lawrence would increase its volumes while decrease its emissions. In expressing concerns over the increasing emissions, she noted that besides the company, the “number of polluting facilities in Waterfront South is disproportionate, and so is the incidence of asthma, cancer, and heart disease.” The DEP asserted that St. Lawrence’s plans to control air emissions “appear to be in compliance with department standards, but input from the community will be considered before approval is granted.”

- **“Detroit Mothers Reveal Environmental Abuses Through Photography,” US States News (June 26, 2007).** The article set forth a press release from the University of Michigan that discussed the Photo Voice Project, which documents environmental injustices that Detroit Head Start mothers believe are harming their children. The mothers document the environmental abuses using photography; for example, their photos “have captured cases of illegal dumping in their neighborhoods by trucks with covered license plates.” The project began five years ago to document environmental racism, “which excludes minorities from environmental decisions affecting their communities, such as exposure to toxic and hazardous waste.” The article noted that “Detroit children are twice as likely to have asthma as other metropolitan areas throughout the country. This environmental injustice can lead to an increased occurrence of learning disabilities, increased aggression and cancer in minority children.”
- **“Clovis Groups Appeal Ethanol Plant Permit,” Associated Press State & Local Wire (June 22, 2007).** According to the article, organizations in Clovis, New Mexico appealed a decision by the New Mexico’s Environment Department that approved an air quality permit for the construction of a proposed ethanol plant in Clovis. The appeal, which was filed on June 21, 2007, asserts that the “plant’s location is too close to mostly Hispanic and black neighborhoods, subjecting those residents to pollution hazards from the plant’s emissions. In their appeal, the groups contend that the State Environment Department wrongly granted the permit because the plant’s location is inconsistent with an environmental justice executive order signed by Governor Bill Richardson in 2005. The order is supposed to ensure that poor people and minorities aren’t subject to disproportionate pollution and environmental dangers.” In addition, the appeal noted that the public notice of the air quality permit application misrepresented the proposed plant’s location, which denied the public the right to meaningful participation in the permitting process. Accordingly, the appeal requests a reversal of the Environment Department’s permit approval.
- **“Coolant Can Ban Tops Panel’s Agenda; Air Board Will Vote on Whether to Bar an Auto Air-Conditioner Fluid That Is a Greenhouse Gas. Critics Say Such a Move Would Hurt the Poor,” Los Angeles Times (June 21, 2007) at B1.** According to the article, the California Air Resources Board (“CARB”) was scheduled to vote on June 21, 2007 on a “proposed ban of [air coolant] cans and two other ‘early action’ greenhouse gas measures that are designed to take effect by 2010.” The ban on cans is part of the measures that AB 32, California’s landmark 2006 climate change law, recommends to lower greenhouse gas emissions. California air regulators assert that the little cans contain the highly potent greenhouse gas HFC 134a, which is harmful to wildlife, “because it hastens melting of ice caps and other global warming effects.” Critics of

the proposed ban, however, assert that the ban on cans would hurt poor people, who widely consume the canned coolants.

- **“Foes Pitch Anti-Pollution Argument in Freeway Fight,” *Arizona Republic* (June 20, 2007) at 4.** According to the article, opponents of the South Mountain Freeway in Arizona voiced their opposition to the 10-lane, 22-mile freeway on June 18, 2007. While their comments were taken, the article noted that the comments likely would not result in any changes. One environmental activist commented that the freeway’s proposed route would “contribute to high pollution readings at an air quality monitoring station at 43rd Avenue and Broadway Road[,] [which] is already an area with the worst air in the county.” The activist went on to note that ethnic minorities and low-income people populate the area.
- **“Foundry Odors Irk Neighbors,” *Austin American-Statesman* (TX June 20, 2007) at B1.** According to the article, residents near the Pure Casting Company in Austin, Texas were scheduled to present complaints to the Austin City Council on June 21, 2007 regarding a pesticide-like odor that allegedly emanates from the Pure Casting Company on a daily basis. Pure Casting Company operates a 39-year old foundry that makes stainless steel, bronze, and aluminum commercial castings. However, residents, including an environmental justice group, believe that the foundry should not be adjacent to an elementary school and residential area due to air quality and environmental issues.
- **“Trash Station on West Side Creates Split in Assembly,” *New York Times* (June 20, 2007) at B3.** According to the article, a group of assemblymen from Upper Manhattan, the Bronx, and Brooklyn criticized three colleagues on June 19, 2007 “for blocking a recycling station planned for the West Side of Manhattan, saying any delay would prolong the health risks their mostly low-income black and Hispanic constituents face.” The three assembly members who blocked the recycling station want to move the station to a different site. However, the assemblymen, who support the planned location for the site, assert that the proposed Gansevoort site is necessary to address the high rates of asthma and infant-mortality rates prevalent in their districts.
- **“Groups May Sue EPA Over Delayed Regulation of Ship Smokestack Pollution; Notice of Intent to Sue Filed Under Clean Air Act,” *PR Newswire U.S.* (June 20, 2007).** According to the article, Earthjustice and Friends of the Earth have warned EPA that they will sue EPA for “failing to meet an April 27 deadline to regulate air pollution from large ships.” The article noted that ocean-going vessels represent one of the largest mobile sources of air pollution in the world, and smokestack emissions from ships are expected to double over the next decade, which will expose communities to “diesel exhaust that contributes to respiratory illness, cancer, heart disease, and premature death.” The article noted that

“air pollution from large ships is one of the least addressed environmental justice issues facing port communities nationwide. In Oakland, Los Angeles, Long Beach, Houston, and New Orleans, pollution blows over neighborhoods where respiratory illness has become common.”

- **“Spitzer’s Proposed Changes to Brownfield Law Will Slow Remediation and Redevelopment, Cautions Prominent Environmental Attorney; Work-Force Housing Likely to Suffer, Says Jon Schuyler Brooks,” PR Newswire U.S. (June 20, 2007).** According to the article, attorney Jon Schuyler Brooks claims that New York Governor Eliot Spitzer’s proposal to change New York’s Brownfield Cleanup Program (“Program”) will curtail the incentive to clean and redevelop contaminated sites. As a result, Mr. Brooks believes that this will result in “a serious blow to environmental justice concerns, burdening less fortunate communities with dangerously polluted, non-productive assets, and reducing opportunities for meaningful community revitalization – especially in the critical area of work-force housing.” Accordingly, the article noted that Mr. Brooks asserted that “any changes to the law should be applied only prospectively, to projects that apply to the [Program] after any amendments are enacted.”
- **“County Battles Plane Noise,” San Bernardino County Sun (CA June 17, 2007).** According to the article, leaders in San Bernardino County, California are attempting to fight a proposal “to allow DHL cargo planes to fly over residential areas of Colton, Rialto, and Bloomington.” The leaders want to ensure that the noise from the low-flying aircraft will not overwhelm the residents. They argue that the planes will subject the residents to health and safety risks. The Federal Aviation Administration (“FAA”) is reviewing the proposal for new flight patterns. However, the FAA noted that “any proposal to shift noise from one area to a lower-income area would encounter some serious environmental justice issues.”
- **“Community Finally to Get Clean Water,” Times (LA June 15, 2007) at 1A.** According to the article, EPA announced on June 14, 2007 that residents of Bethany, Texas will receive clean drinking water after EPA confirmed that the groundwater in the area was “contaminated and unsafe to drink.” The news was met with enthusiasm by Reverend David Hudson who helped bring the contaminated water to EPA’s attention. The residents will get immediate relief but will have to “bear the cost of linking their homes to the water main.” However, Reverend Hudson secured a \$10,000 grant from the Sabine River Authority of Texas to help in this regard. The exact source of the contamination is unknown, however, Reverend Hudson appears to believe that environmental racism was involved. He has filed a federal lawsuit against the Railroad Commission of Texas and claimed that the Commission “violated the community’s civil rights by denying clean drinking water while having full knowledge of the violations.”

- **“EPA Releases Documentary Film on Success Story for Environmental Justice Program,” States News Service (June 14, 2007).** The article set forth a press release from EPA that announced that the Agency would premiere a “documentary film that tells the real-life story of a contaminated, low-income and minority area in Spartanburg that is being transformed into a livable and vibrant community.” EPA planned to show the film, “Environmental Justice: The Power of Partnerships,” in Spartanburg, South Carolina on June 14, 2007. The article noted that EPA’s Assistant Administrator for the Office of Enforcement and Compliance Assurance (“OECA”), Granta Nakayama, articulated that the “success of the Spartanburg project will hopefully inspire others to revitalize their own community.” EPA, in conjunction with the ReGenesis Environmental Justice Partnership, started the project in 1999 and has amassed over \$166 million in funding to cleanup the Arkwright municipal dumpsite and six brownfields sites. In addition, the partnership has built over 400 new homes for rental and home ownership.
- **“EPA and Partners to Host First Redevelopment Forum for Jacksonville Residents,” Environmental Protection Agency Documents and Publications (June 14, 2007).** According to the article, EPA planned to host “a first of its kind Community-Initiated Redevelopment Forum in Jacksonville, Florida, as part of its annual Community Involvement Conference (“CIC”)” from June 19-22, 2007. Residents of Jacksonville have expressed particular concern with cleaning up and redeveloping contaminated sites throughout the City to bring them back into productive uses. As part of the meeting, residents will learn how to influence the redevelopment process to revitalize their neighborhoods.
- **“New Study on Pollution, Birth Problems May Inform Air Standards,” Clean Air Report (June 14, 2007).** According to the article, EPA recently announced that it would fund a study of how “poor and minority communities’ cumulative exposures to air pollution interact with social and genetic factors, and potentially contribute to birth-related health problems.” The study, which EPA announced on May 15, 2007, will provide EPA with data that may result in clean air standard changes. The study pertains to issues of environmental justice and cumulative exposure assessments. EPA hopes to better understand the risks to children and what it can do to better protect minorities.
- **“Road Project Notice Also Written in Spanish,” Oregonian (June 14, 2007) at 5.** According to the article, Clackamas County sent out an announcement regarding a transportation improvement project that was translated into Spanish. The news release had a Spanish translation due to Executive Order 12898’s mandate that federally-funded projects not disproportionately harm minority or low-income populations. Specifically, in deciding to issue the Spanish translation, the County’s consultants reviewed demographic data, which “showed that many

Spanish-only speakers lived near the proposed road improvement area. Almost everyone else in the area was proficient at English.”

- **“Residents Hope FasTracks Uses Electric Trains for Cleaner Air,” Denver Post (June 13, 2007) at B1.** According to the article, residents in northwest Denver have written letters and e-mails to try to persuade the Regional Transportation District (“RTD”) officials to switch their diesel-powered trains to electric. The residents believe the electric trains reduce pollution; however, using diesel trains instead of electric trains saves \$135 million. The residents believe that the RTD should “look to other possibilities because the neighborhood has suffered so much with environmental justice and health issues.”
- **“U.S. EPA Sued Over Oil Refinery Flares Rule; Public Blocked From Toxic Emissions Information and Malfunction Safety Plans,” PR Newswire US (June 13, 2007).** According to the article, the Coalition for a Safe Environment and Los Angeles environmental justice activist Jesse Marquez filed a lawsuit in federal court on June 13, 2007 challenging EPA’s current rules “on ‘Startup, Shutdown, and Malfunction (‘SSM’)’ plans for oil refineries, which have resulted in hours-long refinery flares spewing toxic emissions over neighborhoods, schools, parks, and community playgrounds. The federal lawsuit, represented by Earthjustice, also alleges that an EPA rule change blocks public access to information about specific oil refinery toxic emissions and public safety plans.” EPA’s current rule allows oil refineries to operate without adequate SSM plans. The residents have filed numerous complaints due to serious problems like asthma, bronchitis, and leukemia.
- **“Groups Vow to Fight Incinerator Expansion; Agency Says No Decision Made,” Hartford Courant (CT June 12, 2007) at B3.** According to the article, a protest was held at the Connecticut Resources Recovery Agency’s trash-to-energy plant in Hartford, Connecticut on June 11, 2007. The protestors rallied against “any attempt to increase the plant’s capacity.” Specifically, the protestors believe that increasing trash capacity would increase the already “high asthma rate among Hartford children, which has been linked to higher levels of air pollution.”
- **“Pollution Woes Aired Over School Site,” New Haven Register (CT June 12, 2007).** According to the article, environmentalists in New Haven, Connecticut raised health concerns on June 11, 2007 over heavy air pollution at a location where the City plans to build a school. The Site is in “a ‘diesel hot zone,’ which means there is a dense concentration of heavy particulate pollution from exhaust and fume off the highway. Such high levels of pollution pose health hazards including increases in asthma, bronchitis, heart disease, and chronic obstructive pulmonary disease.”

- **“Bucolic Town Logs Highest Number of Smog Violations in the Country,” Fresno Bee (CA June 11, 2007).** According to the article, the City of Arvin, California is “America’s smoggiest city,” despite the fact that it has “no smoke-belching factories, no rush-hour traffic, no suburbs, and no freeways.” Arvin is a farm community; however it has “averaged 73 bad smog days each year since 2004.” Ninety percent of Arvin is Hispanic, and many residents believe that a “health crisis” exists in Arvin. Area leaders, who believe that environmental justice issues may exist, may file lawsuits against sources of upwind pollution.
- **“California Lawmaker Urges Civil Rights Activists to Ease GHG Demands,” Carbon Control News (June 11, 2007).** According to the article, California Senator Joe Simitian (D-Palo Alto), the Chairman of the State Senate Environmental Quality Committee is “advising civil rights activists to reevaluate their opposition to a greenhouse gas (“GHG”) cap-and-trade program and tone down demands for additional pollution reductions, or risk undermining the State’s leading efforts to combat global warming.” Environmental justice activists oppose cap-and-trade programs to reduce pollution and demand that “the California Air Resources Board (“CARB”) pursue regulations on industrial sources requiring not only GHG emission reductions, but ‘maximum’ reductions of criteria and air toxic pollutant emissions as well.” The activists assert that the GHG credit trading program forgoes “emission reductions in low-income communities of color.” In response to Senator Simitian’s advice to temper their demands, one environmental justice activist expressed concern that the advice represented the “first time a leading Democrat in the Senate appears to be expressing general support for the cap-and-trade approach being spearheaded by [Governor Arnold] Schwarzenegger.”
- **“California Trading Plan Sparks Debate Over Offsets, ‘Safety Valve,’” Carbon Control News (June 11, 2007).** According to the article, environmentalists have expressed concerns with the AB 32 Market Advisory Committee’s (“MAC”) draft report that recommends “how California should design a [GHG] emissions cap-and-trade program.” The report, which was released on June 1, 2007, recommends, among other things, that facilities use out-of-state emission offsets to comply with AB 32, California’s landmark 2006 climate change law. In addition, the report’s attention to environmental justice issues “regarding trading gets a ‘medium’ grade. . . . The report lacks specificity and fails to address a possible scenario in which more natural gas power plants will be built in California in [environmental justice] communities – and hence more pollution – to make up for the likely loss of coal-fired power that is imported.”
- **“Activists Blast Refinery Pilot Projects in South Coast Air Plan,” Inside Cal/EPA (June 8, 2007).** According to the article, environmentalists criticized a proposal from the South Coast Air Quality

Management District (“South Coast”) that “would credit industry with pollution reductions based on controversial, unspecified emissions-offset projects funded by refineries.” Environmental groups also have specific environmental justice concerns with the proposal. The proposal would establish a pilot project that “would give refinery operators flexibility to meet emission reduction targets while addressing environmental justice concerns.” However, environmental justice activists argued that environmental justice ramifications existed in the pilot project and that the South Coast “cannot develop this program that would protect community members living near refineries.”

- **“EPA Awards \$1 Million for Environmental Justice Projects,” Environmental Protection Agency Documents and Publications (June 5, 2007).** According to the article, EPA awarded 10 grants of \$100,000, as part of its Environmental Justice Collaborative Problem-Solving program, “which supports environment and public health improvements in low-income communities around the Nation.” The grants, which were awarded at a ceremony in Washington, D.C. on June 5, 2007, will address “environmental and public health issues[, such] as childhood asthma, farm worker pesticide protection, fish consumption, indoor air quality, drinking water contamination, and lead poisoning prevention.” EPA Assistant Administrator for the Office of Enforcement and Compliance Assurance (“OECA”), Granta Nakayama, presented the awards and noted that the grants “provide necessary resources for local communities to take an active role in our nation’s environmental solutions.” The following groups received grants: Vietnamese American Initiative for Development (Boston, Massachusetts); Southwest Area Neighborhood Association, Inc. (Rochester, New York); Coalition for Environmentally Safe Communities (Washington, D.C.); Rural Empowerment Association for Community Health (Duplin, North Carolina); Cleveland Tenants Association (Cleveland, Ohio); Louisiana Environmental Justice Community Organization Coalition (Morgan City, Louisiana); Area Resources for Community and Human Services (St. Louis, Missouri); San Luis Valley Ecosystem Council (Alamosa, Colorado); Pacific Institutes for Studies in Development, Environment, and Security (West Oakland, California); and Environmental Coalition of South Seattle (Seattle, Washington). More information on the recipients can be found at: www.epa.gov/compliance/environmentaljustice/grants/ej-cps-grants.html.
- **“Toxic Site Stalls Project,” Santa Fe New Mexican (N.M. June 5, 2007) at A1.** According to the article, the Mayor of Espanola, New Mexico expressed frustration by delays in long-awaited improvements to Espanola’s main street. Mayor Joseph Maestas blames the federal government for the delay, and the project’s proximity to a Superfund Site, as well as the fact that the town is struggling economically, has caused Mayor Maestas to assert that an environmental justice issue exists.

Federal and State officials, however, state that nothing can be done until easement issues are settled and the Superfund Site is remediated.

- **“Environmentalists’ Plan May Set Hill Agenda after Early Climate Focus,” Inside EPA (June 1, 2007).** According to the article, environmentalists have outlined an “ambitious legislative agenda for Congress to reform major environmental statutes.” The Center for Progressive Reform (“CPR”) issued a report, entitled “CPR for the Environment: Breathing Life into the Nation’s Environmental Statutes,” which calls on Congress to amend the Clean Air Act, Clean Water Act, Superfund, and other environmental statutes and renew its commitment to the environment. The work would occur once Congress finishes its current work on climate change legislation. One specific reform that CPR supports is to require EPA “to consider ecosystem services and environmental justice in pesticide registration decisions.”
- **“Lawmakers, Activists Seek ARB Expansion of GHG Rule List,” Inside Cal/EPA (June 1, 2007).** According to the article, environmentalists and lawmakers in California are urging the Air Resources Board (“Board”) to expand its draft list of early action greenhouse gas (“GHG”) measures as AB 32, the State’s landmark 2006 climate change law, mandates. The groups believe that the current three measures are “woefully inadequate” and will not meet the intent of AB 32. A global warming environmental justice committee has proposed “the addition of more than 20 new measures to expand the list, many focusing on traditional pollution sources, such as vehicles and petroleum facilities. . . [Environmental Justice] activists are calling on lawmakers and [the Board] to seek additional criteria pollutant emission reductions through the implementation of GHG rules on industry to lower risks in poor, minority areas.” However, one legislator warned that environmental justice activists should not overload their early action list expectations.
- **“Broadwater’s Project Onshore; Low-Income Homes to Get Energy-Saving Weatherization from Company Proposing Offshore Gas Terminal,” Newsday (N.Y. June 1, 2007) at A48.** According to the article, Broadwater Energy announced a “10-year, \$10-million initiative to fund the weatherization of more than 2,000 houses in low-income parts of Nassau and Suffolk counties” on May 31, 2007. The weatherization project is expected to help low-income families save money on their utility bills. According to the Village of Hempstead Mayor, Wayne Hall, the project “will improve air quality and lower energy costs . . . with no negative environmental impact to any Long Island community. . . . It is environmental justice.”
- **“Mayor Bloomberg and Borough President Stringer Announce Creation of East Harlem Asthma Center of Excellence with Goal to Reduce Asthma Hospitalizations 50% by 2010,” States News Service**

(May 30, 2007). The article set forth a press release from New York Mayor Michael R. Bloomberg that announced the “creation of a new facility in East Harlem that will improve the treatment of asthma, the most pressing public health problem in the neighborhood. The new East Harlem Asthma Center of Excellence [(“Center”)] will be placed in a storefront location, train medical providers in the latest and most effective treatments and medications, and help reduce exposure to the environmental triggers that exacerbate asthma. The Center will ensure that children with asthma lead full, healthy, productive lives.” The Center seeks to reduce asthma hospitalizations by 50% by 2010. It will accomplish this by, among other things, increasing the number of children who receive appropriate medications and working to reduce the sources of asthma.

- **“Protest Over PVC Targets Retailer,” Pentagraph (IL May 25, 2007) at A4.** According to the article, approximately 30 protestors rallied outside of a Target in Bloomington, Illinois on May 24, 2007 to rally against Target’s sale of products that contain polyvinyl chloride (“PVC”), which has been linked to cancer and birth defects. According to the protestors some packaging, teething rings, children’s toys, and shower curtains contain PVC. While other retailers, such as Wal-Mart, have begun to phase out products and packaging containing PVC, Target has not done so. In response, Target noted that the activists have “grossly” misrepresented its position, as Target is taking steps to “reduce PVC in [its] products and packaging.”
- **“Cancer Risk Rises for Those Near Rail Yards; A Study Says Commerce Neighborhoods Near Several Major Facilities Face a Greater Threat from Diesel Soot Than Residents Elsewhere,” Los Angeles Times (May 25, 2007) at B1.** According to the article, new studies from California air regulators found that residents who live near Southern California’s rail yards “face cancer risks from soot as much as 140% greater than in the rest of the region. . . In addition, clouds of diesel exhaust blown by the wind from the rail yards blanket wide swaths of Greater Los Angeles, upping annual cancer risks slightly for millions more residents.” The report found that neighborhoods in Commerce, California that are near railyards were hardest hit. Health risks include asthma, respiratory disease, and impaired lung function due to exposure to diesel soot. In addition to locomotives, refrigerated cars contribute to the diesel emissions at the rail yards. One environmental justice activist commented that living next to a railyard is similar to “having a factory with 100 smokestacks going all the time.”
- **“Groups Address Poor Areas’ Environmental Challenges,” Chattanooga Times Free Press (TN May 24, 2007) at E6.** The article addresses the environmental justice movement since the 1980s and discusses “several national groups [that] have devoted considerable

resources to righting wrongs and helping communities defend their rights to clean air and water.” The article noted that the Center for Health and Environmental Justice was perhaps the best known group, for its efforts to shut down and remediate the Love Canal District of Niagara, New York. In addition, it discussed the efforts of the Natural Resources Defense Council, who “mounts campaigns and lawsuits on various environmental justice issues, with a recent focus on helping the victims of Hurricane Katrina.” The article concluded by recommending that those with environmental justice issues contact one of the groups to “help size up potential toxic threats and provide assistance on what to do.”

- **“West Oakland Teens Want the Lead Out,” Inside Bay Area (CA May 24, 2007).** According to the article, a new youth environmental group in West Oakland, California “is investigating the presence of lead, chromium, and other harmful particles in the neighborhood.” The group, West Oakland Urban Students Uprising Against Pollution (“WUSUP”), announced “troubling” findings on May 23, 2007, including that the “concentration of lead in dust samples collected near a classroom window was 4.8 micrograms per 100 square centimeters, much higher than the EPA benchmark of 2.7 micrograms.” The article noted that WUSUP’s analysis was part of a larger West Oakland lead project, because the presence of lead in such preliminary data will lead to more direct and elaborate tests to directly measure the particles in the air.
- **“ConAgra Procures Air Permit,” Clovis News Journal (May 23, 2007).** According to the article, the New Mexico Environment Department (“Department”) approved ConAgra’s air quality construction permit on May 22, 2007, which will allow ConAgra to construct a \$175 million ethanol plant. A coalition of groups, however, oppose the planned location of the plant, asserting that it is “too close to neighborhoods and schools that have a heavily low-income and minority population.” The groups would like New Mexico Governor Bill Richardson to intervene, since they believe that the plant’s location “runs counter to an ‘environmental justice’ executive order signed the Governor in 2005, which is intended to ensure poor people and minorities aren’t exposed to greater environmental and pollution threats than other Americans.” The groups plan to appeal the Department’s decision to the State Environmental Improvement Board.

2. **Recent Litigation.**

- **Parents Involved in Community Schools v. Seattle School Dist. No. 1, No. 05-908, slip op. (U.S. June 28, 2007).** The United States Supreme Court held in a 5-4 opinion that race cannot be a factor in assigning children to public schools. In this case, school districts in Seattle, Washington and Louisville, Kentucky “voluntarily adopted student

assignment plans that rely on race to determine which schools certain children may attend.” For instance, the Seattle district categorized children as either “white” or “nonwhite” and allocated slots in certain high schools by using racial classifications as a “tiebreaker.” In finding that other means besides racial classifications should be used to diversify schools, the Court found that the school districts “have not carried their heavy burden of showing that the interest they seek to achieve justifies the extreme means they have chosen—discriminating among individual students based on race by relying upon racial classifications in making school assignments.” The Court cited its prior ruling in Grutter v. Bollinger, 539 U.S. 306 (2003), in which the Court upheld the race-conscious admissions policy of the law school due to the compelling interest in attaining a diverse student body as well as the fact that the admissions program was narrowly tailored to serve its compelling interest in obtaining the education benefits that flow from a diverse student body. In Grutter, racial classification was one of various factors considered in deciding whether to admit a student. In this case, by contrast, race is not considered as part of a broader effort to achieve “exposure to widely diverse people, cultures, ideas, and viewpoints, . . . race, for some students, is determinative standing alone.” In his opinion, Chief Justice John Roberts found noted that the “districts offer no evidence that the level of racial diversity necessary to achieve the asserted educational benefits happens to coincide with the racial demographics of the respective school districts—or rather the white/nonwhite or black/“other” balance of the districts, since that is the only diversity addressed by the plans.” In addition, the districts “have also failed to show that they considered methods other than explicit racial classifications to achieve their stated goals.” Chief Justice Roberts determined that “classifying and assigning schoolchildren according to a binary conception of race is an extreme approach in light of our precedents and our Nation’s history of using race in public schools, and requires more than such an amorphous end to justify it.” The Chief Justice concluded that “the way to stop discrimination on the basis of race is to stop discriminating on the basis of race.”

3. Regulatory/Legislative/Policy.

The following items were most noteworthy:

A. Federal Congressional Bills and Matters.

- **S. 1696, introduced on June 26, 2007 by Senator Dianne Feinstein (D-CA). Status: Referred to Senate Appropriations Committee on June 26, 2007. See also H.R. 2643, introduced on June 11, 2007 by Congressman Norman D. Dicks (D-WA). Status: Received in Senate on June 28, 2007. Placed on Senate Calendar on Legislative Orders.**

The companion bills make appropriations for the Department of the Interior, EPA, and related agencies for the fiscal year ending September 30, 2008. Title II set forth the budget for EPA. The Senate Bill allocates \$7.7 billion for EPA in fiscal year 2008. According to a news release from Congressman Alcee L. Hastings (D-FL), dated June 27, 2007, at his and Congresswoman Hilda L. Solis's (D-CA) request, the House Bill included \$7 million for environmental justice programs at the EPA and the Department of the Interior, which represents a \$2 million increase from the previous year. Both Bills articulate that none of the funds may be used in contravention of Executive Order 12898.

- **S. 1576, introduced on June 7, 2007 by Senator Edward M. Kennedy (D-MA). Status: Referred to Senate Committee on Health, Education, Labor, and Pensions on June 7, 2007.** The Bill, the "Minority Health Improvement and Health Disparity Elimination Act," amends the Public Health Service Act to improve the health and healthcare of racial and ethnic minority groups. Among other things, the Bill provides for grants from which funds can be used to "address health disparities in the United States-Mexico Border Area, as defined in section 8 of the United States-Mexico Border Health Commission Act (22 U.S.C. 290n-6), relating to health disparities in the areas of . . . health conditions that have a disproportionate impact on racial and ethnic minorities and a high prevalence in the Border Area."
- No noteworthy "*Miscellaneous House and Senate Congressional Record Mentions of Environmental Justice*" were identified for this time period.
- **Federal Register Notices.**
 - **EPA, Extension of the Deferred Effective Date for 8-Hour Ozone National Ambient Air Quality Standards for the Denver Early Action Compact, 72 Fed. Reg. 35,356 (June 28, 2007).** EPA extended the "deferral of the effective date of the 8-hour ozone National Ambient Air Quality Standard ("NAAQS") designation for the Denver Early Action Compact ("EAC") from July 1, 2007 to September 14, 2007. The EAC areas have agreed to reduce ground-level ozone pollution earlier than the Clean Air Act ("CAA") requires. On November 29, 2006, EPA extended the deferred effective date for the Denver EAC area from December 31, 2006, to July 1, 2007. In that final rulemaking, EPA noted that there were issues with Denver's EAC that would need to be addressed before EPA would extend their deferral until April 15, 2008. The action extending the deferral to July 2007 was challenged, and the parties are discussing settlement." Accordingly, EPA now issues a short further deferral to preserve the status quo as settlement discussions take place. The rule,

which takes effect on June 28, 2007, will not affect the level of protection to the human health or environment, so it will not have and disproportionately high and adverse effects on minority or low-income populations. Specifically, the health and environmental risks associated with ozone were considered in the establishment of the 8-hour, 0.08 ppm ozone NAAQS. The level is designed to be protective with an adequate margin of safety.”

- **EPA, Mefluidide Risk Assessments; Notice of Availability, 72 Fed. Reg. 34,007 (June 20, 2007).** EPA announced the availability of its ecological risk assessments and related documents for the pesticide mefluidide. In soliciting public comment on these documents by August 20, 2007, EPA requested that the public suggest risk management ideas or proposals to address the identified risks. EPA is developing a Reregistration Eligibility Decision (“RED”) for inorganic chlorates through a modified four-phase public participation process to ensure that all pesticides meet current health and safety standards. This is Phase 3 of the process. To help address potential environmental justice issues, EPA seeks, among other things, “information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to mefluidide, compared to the general population.”

- **DOD, Notice of Intent to Prepare an Environmental Impact Statement for Outdoor Research, Development, Testing & Evaluation Activities at Naval Surface Warfare Center, Dahlgren Site, King George County, VA and To Announce Public Scoping Meetings, 72 Fed. Reg. 33,456 (June 18, 2007).** The Department of the Navy (“Navy”) of the United States Department of Defense (“DOD”) announced its intent to “prepare an Environmental Impact Statement (“EIS”) to evaluate the potential environmental consequences of expanding Naval Surface Warfare Center Dahlgren Site’s (“NSWCDL”) research, development, test, and evaluation (“RDT&E”) activities taking place outdoors on the Potomac River Test Range Complex, the Explosives Experimental Area, and Mission Areas. RDT&E activities are conducted in support of NSWCDL’s mission requirements in surface warfare, surface ship combat systems, strategic systems, ordnance, and special warfare systems. These activities include outdoor operations that require the use of ordnance, lasers, electromagnetic fields, and chemical and biological simulants (imitations).” Five public scoping meetings have been scheduled to discuss this proposal. Among other things, the EIS will consider socioeconomic issues, such as environmental justice.

- **EPA, Expansion of RCRA Comparable Fuel Exclusion, 72 Fed. Reg. 33,284 (June 15, 2007).** EPA announced its proposal to

“expand the comparable fuel exclusion under the rules implementing subtitle C of the Resource Conservation and Recovery Act (“RCRA”) for fuels that are produced from hazardous waste but which generate emissions that are comparable to emissions from burning fuel oil when such fuels are burned in an industrial boiler. Such excluded fuel would be called emission-comparable fuel (“ECF”). ECF would be subject to the same specifications that currently apply to comparable fuels, except that the specifications for certain hydrocarbons and oxygenates would not apply. The ECF exclusion would be conditioned on requirements including: Design and operating conditions for the ECF boiler to ensure that the ECF is burned under the good combustion conditions typical for oil-fired industrial boilers; and conditions for tanks storing ECF which conditions are typical of those for storage of commercial fuels, and are tailored for the hazards that ECF may pose.” In soliciting comments by August 14, 2007, EPA noted that the proposal “will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This proposal is designed to allow for the use of waste as fuel under emission comparable standards, resulting in no increased risk to human health and the environment, when compared to the burning of fossil fuels.”

- **EPA, 2-Octyl-3 (2H)-Isothiazolone (Octhilinone) Risk Assessment; Notice of Availability and Risk Reduction Options, 72 Fed. Reg. 32,649 (June 13, 2006).** EPA announced the availability of its ecological risk assessments and related documents for the pesticide 2-octyl-3 (2H)-isothiazolone (“octhilinone”). In soliciting public comment on these documents by July 13, 2007, EPA requested that the public suggest risk management ideas or proposals to address the identified risks. EPA is developing a RED for inorganic chlorates through a modified four-phase public participation process to ensure that all pesticides meet current health and safety standards. To help address potential environmental justice issues, EPA seeks, among other things, “information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to octhilinone, compared to the general population.”

- **EPA, Approval and Promulgation of Implementation Plans; Revisions to the Nevada State Implementation Plan; Request for Rescission, 72 Fed. Reg. 32,529 (June 13, 2007).** EPA announced that it was finalizing the “rescission of the Federal implementation plan promulgated under the Clean Air Act for the regulation of fugitive sulfur oxides emissions from a copper

smelter that had operated in the State of Nevada but that is no longer in existence. The rule takes effect on July 13, 2007. EPA determined that the rule will not affect the level of protection to the human health or environment, so it will not have and disproportionately high and adverse effects on minority or low-income populations. The rule “does not relax the control measures on sources regulated by the rule and therefore will not cause emissions increases from these sources.”

- **EPA, Petition for Reconsideration and Proposal for Withdrawal of Findings of Significant Contribution and Rulemaking for Georgia for Purposes of Reducing Ozone Interstate Transport, 72 Fed. Reg. 31,771 (June 8, 2007).** EPA requested comments by July 23, 2007 on its response to a Petition for Reconsideration regarding a final rule issued under Section 110 of the Clean Air Act related to the interstate transport of nitrogen oxides (NO[X]). EPA proposed to “rescind the applicability of the requirements of the Phase II NO[X] [State Implementation Plan (“SIP”)] Call Rule to the State of Georgia, only.” EPA determined that the rule will not affect the level of protection to the human health or environment, so it will not have and disproportionately high and adverse effects on minority or low-income populations. For the final NO[X] SIP Call, EPA “conducted a general analysis of the potential changes in ozone and particulate matter levels that may be experienced by minority and low-income populations as a result of the requirements of that rule. . . . This action does not affect this analysis.”

- **EPA, Phase 2 of the Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Notice of Reconsideration, 72 Fed. Reg. 31,727 (June 8, 2007).** EPA responds to comments received in response to its notice of reconsideration for several aspects of the November 29, 2005 Phase 2 final rule to implement an 8-hour ozone national ambient air quality standard (“NAAQS”). The rule takes effect on July 9, 2007. The rule will not “have disproportionately high and adverse human health or environmental effects on minority or low-income populations because the 8-hour ozone [NAAQS] is designed to protect public health and is intended to apply equally to all portions of the population.”

- **EPA, Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of Lake and Porter Counties to Attainment of the 8-Hour Ozone Standard and Approval of Base Year Emission Inventories, 72 Fed. Reg. 30,436 (May 31, 2007).** EPA proposed to: (1) determine that the Chicago-Gary-Lake County, Illinois-Indiana (“IL-IN”) 8-hour ozone nonattainment area has attained the 8-hour ozone National

Ambient Air Quality Standard (“NAAQS”); (2) approve Indiana’s ozone maintenance plan for Lake and Porter Counties as a revision to the Indiana State Implementation Plan (“SIP”); (3) approve Volatile Organic Compounds (“VOC”) and Nitrogen Oxides (“NO[X]”) Motor Vehicle Emission Budgets (“MVEBs”) for Lake and Porter Counties, as the ozone maintenance plan supports; (4) approve the State’s 2002 base year VOC and NO[X] emission inventories for Lake and Porter Counties; (5) approve VOC and NO[X] periodic emission inventories for 1999, 2002, and 2004 into Indiana’s SIP; and (6) approve the redesignation of Lake and Porter Counties to attainment of the 8-hour ozone NAAQS. Comments on the proposed rule are due by July 2, 2007. EPA noted that proposal would “not result in the relaxation of control measures on existing sources and, therefore, would not cause emissions increases from those sources. Overall, emissions in the area are projected to decline following redesignation. Thus, these proposed actions would not have disproportionately high and adverse effects on any communities in the area, including minority and low-income communities.”

— **EPA, 4-Aminopyridine Risk Assessment; Notice of Availability, 72 Fed. Reg. 29,995 (May 30, 2006).** EPA announced the availability of its ecological risk assessments and related documents for the pesticide 4-aminopyridine. In soliciting public comment on these documents by July 30, 2007, EPA requested that the public suggest risk management ideas or proposals to address the identified risks. EPA is developing a RED for inorganic chlorates through a modified four-phase public participation process to ensure that all pesticides meet current health and safety standards. To help address potential environmental justice issues, EPA seeks, among other things, “information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to 4-aminopyridine, compared to the general population.”

— **EPA, Control of Emissions from Nonroad Spark-Ignition Engines and Equipment, 72 Fed. Reg. 28,098 (May 18, 2007).** EPA proposed “emission standards for new nonroad spark-ignition engines that will substantially reduce emissions from these engines. The proposed exhaust emission standards would apply in 2009 for new marine spark-ignition engines, including first-time EPA standards for sterndrive and inboard engines. The proposed exhaust emission standards would apply starting in 2011 and 2012 for different sizes of new land-based, spark-ignition engines at or below 19 kilowatts (“kW”). These small engines are used primarily in lawn and garden applications. [EPA] also [proposed] evaporative emission standards for vessels and equipment using

any of these engines. In addition, [EPA made] other minor amendments to our regulations. [EPA estimates] that by 2030, the proposed standards would result in significant annual reductions of pollutant emissions from regulated engine and equipment sources nationwide, including 631,000 tons of volatile organic hydrocarbon emissions, 98,200 tons of NO[X] emissions, and 6,300 tons of direct particulate matter (“PM[2.5]”) emissions. These reductions correspond to significant reductions in the formation of ground-level ozone.” Comments on the proposal are due by August 3, 2007. With regard to Executive Order 12898, EPA determined that the proposal “will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. This proposed rule will reduce air pollution from mobile sources in general and thus decrease the amount of such emissions to which all affected populations are exposed.”

— **DOI, Notice of Intent To Prepare an Environmental Impact Statement on a Plan of Operations for the Graymont Western U.S. Proposed Expansion of the Indian Creek Limestone Mine and To Initiate the Public Scoping Period, in Montana, 72 Fed. Reg. 28,067 (May 18, 2007).** The Bureau of Land Management of the United States Department of Interior (“DOI”) announced the availability of an Environmental Impact Statement (“EIS”) “on the potential impacts of a proposed Plan of Operations for a proposed expansion of limestone mining operations by Graymont Western U.S., Inc.” Among other things, the EIS will analyze potential impacts to the Montana National Guard’s training range, including Unexploded Ordnance (“UXO”), which exists in the proposed expansion area wildlife and cultural resources, and cumulative impacts. In addition, the EIS, which seeks comments 30 days after the publication date, will analyze environmental justice.

B. State Congressional Bills and Matters.

- **California, Assembly Bill 568, introduced on February 21, 2007 by Assemblywoman Betty Karnette (D-District 54). Status: In Senate. Amended. Rereferred to Senate Committee on Local Government on June 13, 2007.** The Bill seeks to establish a Port Community Advisory Committee to “respond to specified actions and impacts on harbor area communities.” The Bill specifies the committee’s duties and provides for funding. The Bill sets forth that funds may be used to, among other things, hire an environmental justice program coordinator.

- **California, Assembly Bill 1066, introduced on February 23, 2007 by Congressman John Laird (D-District 27). Status: Rereferred to Senate Committee on Local Government on June 28, 2007.** The Bill takes the “first steps at the statewide level to compile information and to assist state and local governments as they confront likely sea level increases caused by climate change.” Among other things, the Bill requires “the Ocean Protection Council, in coordination with other state and federal agencies, to provide the best available scientific information to state agencies to help them plan for sea level rise along the California coast and in California’s bays.” The Council should update this information periodically. In addition, the Bill also calls for the preparation of guidelines, which shall contain guidelines to address environmental justice matters.
- **California, Assembly Bill 1107, introduced on February 23, 2007 by Congressman Juan Arambula (D-District 31). Status: In Senate. Read First Time. Sent to Senate Committee on Rules for Assignment on June 7, 2007.** The Bill amends Section 65072 of, and adds Section 15571 to, the Government Code relating to transportation. Specifically, the Bill requires the establishment of an advisory committee to help assess the shipping needs and practices of small businesses and microenterprises. The committee shall, among other things, assess statewide and regional opportunities for small businesses and microenterprises “to participate in the State’s goods movement logistics sector, including a review of how these entities may assist in the implementation of environmental justice policies of goods movement.” The committee shall prepare a report to the Governor and the Legislature by January 1, 2009.
- **California, Assembly Bill 1472, introduced on February 23, 2007 by Congress Mark Leno (D-District 13). Status: Status: In Senate. Read First Time. Sent to Senate Committee on Rules for Assignment on June 7, 2007.** The Bill would “establish the California Healthy Places Act of 2008, which would require various state agencies and departments to collaboratively support childhood development, prevent injury, illness, and chronic disease, ensure environmental health, and reduce health disparities by providing knowledge, guidance, and resources for public health assessments of land use and transportation system planning.” The Bill establishes an interagency workgroup, in which one of its representatives will come from a community-based organizations that serves people from communities that “have populations that are disproportionately burdened by disparities in health outcomes or health adverse environmental conditions, including, but not limited to, rural or urban communities with large minority or low-income populations.”
- **California, Senate Bill 10, introduced on December 4, 2006 by Senator Christine Kehoe (D-District 39). Status: Rereferred to Assembly**

Committee on Local Government on June 19, 2007. The Bill changes the responsibilities and governance of the San Diego County Regional Airport Authority's governing board and replaces it with a new seven-member board of directors. At least one member shall have experience in environmental justice topics, including planning for the equitable distribution of public facilities, industrial facilities, and other land uses. The State Aeronautics Act ("Act"), which is the existing law, establishes the practice of airport land use compatibility planning to limit the risk of accidents and nuisances that airport operations cause and ensures the orderly operations and growth of airports. Every county in California must designate an Airport Land Use Commission responsible for compatibility planning and review. The Act exempts the County of San Diego from those provisions. The Legislature created the new San Diego County Regional Airport Authority ("Authority") and shifted considerable powers from the San Diego Unified Port District and the San Diego Association of Governments to create the new Authority. The Bill changes the governance and responsibilities of the Authority.

- **California, Senate Bill 240, introduced on February 14, 2007 by Senator Dean Florez (D-District 16). Status: *Sent to Assembly on June 6, 2007. Read First Time. At Desk.*** The Bill seeks to address the finding that residents of the San Joaquin Valley "suffer some of the worst air quality in the world[,] [which] poses a significant threat to public health, the environment, and the economy of the valley." Of particular note is the fact that the Bill provides at least \$10 million to "mitigate the impacts of air pollution on public health and the environment in disproportionately impacted environmental justice communities in the San Joaquin Valley. The district board shall convene an environmental justice advisory committee, selected from a list given to the board by environmental justice groups from the San Joaquin Valley, to recommend the neighborhoods in the district that constitute environmental justice communities, and how to expend funds within these communities."
- **California, Senate Bill 826, introduced on February 23, 2007 by Senator Alex Padilla (D-District 20). Status: *Referred to Assembly Committee on Natural Resources on June 19, 2007.*** The Bill requires the California Integrated Waste Management Board in the Resources Agency to "adopt minimum standards to identify and mitigate impacts in disproportionately affected communities in which solid waste facilities are located, consistent with environmental justice, including providing special mitigation measures." The Bill provides for special mitigation measures to "reduce or eliminate any disproportionate impacts from solid waste facilities in disproportionately affected communities."
- **Minnesota, Senate Bill 967, introduced on February 19, 2007 by Senator Linda Berglin (D-District 61). Status: *Substituted by H.B.***

1078. Indefinitely Postponed on May 4, 2007. See also Minnesota, House Bill 1078, introduced on February 19, 2007 by Congressman Thomas Huntley (D-District 7A). Status: Enacted. Filed on May 25, 2007. The Bill makes numerous changes to, among other things, the State's health and human services programs. Included among the changes is the establishment of funding for environmental justice mapping. Specifically, the Bill sets forth that Commissioner of Health and the Commissioner of the Pollution Control Agency shall establish an environmental justice mapping program to expand the State's environmental justice mapping capacity. Accordingly, the Bill seeks to promote public health tracking.

- **New York, Assembly Bill 8697, introduced on May 25, 2007 by Congressman Paul D. Tonko (D-District 105). Status: Passed Assembly on May 30, 2007. Referred to Senate Rules Committee on May 30, 2007.** The Bill amends, among other things, public service law and public authorities law, in relation to the siting of major electric generating facilities. Specifically, the Bill would set the process for building power plants to ensure the protection of public health and the environment, as well as the availability of a sound and reliable source of electricity. The Bill would establish a siting process for facilities that generate power using almost every form of energy. It would also reauthorize the state energy planning process. In addition, to balance the need for new power plants and the protection of health, safety, and environment of the communities of the potential facility sites, the Bill requires an analysis of the new facility's health impact on the affected community. Specifically, the Bill mandates that siting boards consider environmental justice before deciding on a siting application.
- **New York, Senate Bill 5908, introduced on May 21, 2007 by Senator James W. Wright (R,C, I-District 48). Status: Referred to Senate Committee on Energy and Telecommunications on May 21, 2007.** The Bill amends, among other things, the environmental conservation law. Specifically, the Bill establishes a state energy planning board to create a state energy plan. The Bill also establishes a process for the siting of major electric generating facilities. Among other things, the Bill requires that someone file a scoping statement prior to siting a facility. The statement shall, among other things, describe any predictable, significant, and adverse disproportionate environmental impacts associated with the construction or operation of the proposed facility to analyze "environmental justice issues."
- **New York, Senate Bill 6083, introduced on June 7, 2007 by Senator Jose M. Serrano (D-District 28). Status: Referred to Senate Committee on Rules on June 7, 2007.** The Bill amends the environmental conservation laws with regard to environmental justice. Specifically, the

Bill provides new definitions, including the definition for “potential environmental justice area.” The Bill defines “potential environmental justice area” as “a minority or low-income community that may bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.” The Bill also requires the preparation of a survey that sets forth the location and types of environmental facilities in the State.

- **South Carolina, House Bill 3933, introduced on April 18, 2007 by Congressman Harold J. Mitchell, Jr. (D-District 31). *Status: Passed on May 31, 2007.*** The Joint Resolution would create a multi-agency advisory committee to the South Carolina Department of Health and Environmental Control to promote environmental justice in the State. The committee would be known as the South Carolina Environmental Justice Advisory Committee, which, among other things, will make recommendations “regarding an action that should be taken to address an environmental justice issue consistent with existing statutory and regulatory policy.” The Bill defined environmental justice as “the fair treatment and meaningful involvement of a person regardless of his race, color, ethnicity, gender, religion, income, or education level with respect to the development, implementation, or enforcement of a law, regulation, or policy that impact the person’s environmental health.” The Bill specified that the Committee meet annually and provide an annual report.
- **State Regulatory Alerts.**
 - No noteworthy “*State Regulatory Alerts*” were identified for this time period.